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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Applicant: Hilt	)	Art Unit: 2122
Serial No.: 09/944,655	)	Examiner: Curcio
Filed: August 31, 2001	)	50R4741
For: CLIENT-SERVER BIDIRECTIONAL SYNCHRONIZATION VIA BROWSER PLUG IN FOR AN XM RADIO SYSTEM	)	October 16, 2006 750 B STREET, Suite 3120 San Diego, CA 92101
	)	

**APPEAL BRIEF**

Commissioner of Patents and Trademarks

Dear Sir:

This brief is submitted under 35 U.S.C. §134 and is in accordance with 37 C.F.R. Parts 1, 5, 10, 11, and 41, effective September 13, 2004 and published at 69 Fed. Reg. 155 (August 2004). This brief is further to Appellant's Notice of Appeal filed herewith.

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**(1) Real Party in Interest**

The real parties in interest are Sony Corp. and Sony Electronics Inc.

**(2) Related Appeals/Interferences**

No other appeals or interferences exist which relate to the present application or appeal.

**(3) Status of Claims**

Claims 21-28 are pending and finally rejected, which rejections are hereby appealed, and claims 1-20 are canceled.

**(4) Status of Amendments**

No amendments are outstanding.

**(5) Summary of Claimed Subject Matter**

As an initial matter, it is noted that according to the Patent Office, the concise explanations under this section are for Board convenience, and do not supersede what the claims actually state, 69 Fed. Reg. 155 (August 2004), see page 49976. Accordingly, nothing in this Section should be construed as an estoppel that limits the actual claim language.

Claim 21 recites a method for obtaining information related to an XM radio broadcast that includes receiving at a client device (reference numeral 104, figure 1; page 4, line 17), from an XM radio (102, figure 1; page 4, line 16), service information related to an XM radio broadcast. The service information contains at least one of: product identification, artist name, song name, broadcast name (page 5, lines 5-10). The client device is configured with a firewall (110, figure 1; page 4, line 20). The method includes receiving at the client device, from a user input device, a signal representing the service information, page 6, lines 1-20. The service information is sent to a server computer over the Internet, id., correlated to information

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related to the service information, page 6, lines 15-20, and at a browser plug-in (116, figure 3; page 6, line 14) that is associated with the client device, an identification of an Internet site is received at which the information related to the service information can be located (page 6, lines 27 and 28). Using the identification of an Internet site, the client browser plug-in retrieves the information related to the service information without causing the firewall to block the information related to the service information (page 6, lines 5-11).

Claim 24 recites a system in which a client device application with associated XM radio (supra) receives service information related to an XM radio broadcast. A user input device generates a signal representing the service information, supra, and a browser (114, figure 3; page 6, line 14) associated with the client device application sends the service information to a server computer (106, figure 1; page 4, line 19) over the Internet, supra. A client browser portion (116, supra) that is associated with the client device application accesses an identification of an Internet site at which information correlated to the service information can be accessed, supra, with the browser portion using the identification of an Internet site to cause the browser to retrieve the information correlated to the service information, supra.

**(6) Grounds of Rejection to be Reviewed on Appeal**

Claims 21-28 had been rejected under 35 U.S.C. §102 as being anticipated by Lee et al., USPN 6,374,177.

**(7) Argument**

As an initial matter, it is noted that according to the Patent Office, a new ground of rejection in an examiner's answer should be "rare", and should be levied only in response to such things as newly presented arguments by Applicant or to address a claim that the examiner previously failed to address, 69 Fed. Reg.

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155 (August 2004), see, e.g., pages 49963 and 49980. Furthermore, a new ground of rejection must be approved by the Technology Center Director or designee and in any case must come accompanied with the initials of the conferees of the appeal conference, *id.*, page 49979.

Of relevance to the present claims is that Lee et al. nowhere envisions uploading the claimed service information, gleaned from an XM radio broadcast, to the Internet and receiving back information relating thereto, much less in the way particularly recited in, e.g., Claim 21 for avoiding the triggering of a client device firewall. In fact, Lee et al. nowhere even mentions "firewall".

Furthermore, Lee et al. nowhere envisions sending information from a radio broadcast of any kind to the Internet for correlation to a Internet site *and then causing a browser associated with the client browser plug-in to retrieve the information related to the service information without causing the firewall to block the information related to the service information* as recited in Claim 21. Instead, in portion of Lee et al. that has been relied on for the step of correlating user input to an Internet site (col. 10, lines 24-29), nothing at all is disclosed as a follow-up to what happens in the event the user accesses the site, much less that upon selection of this particularly derived address a particular type of information is downloaded, much less still that it is downloaded without causing the firewall to block the information. All the examiner can muster for this plethora of missing teachings in Lee et al. is a general reference to "figure 3", which does not appear to remotely support the proposition for which it has been relied.

Although Claim 24 is cast in broader terms than Claim 21, the preceding observation remains valid. More particularly, nothing in Lee et al. appears to suggest what to do with the Internet address in col. 10, lines 24-29 relied on by the examiner, much less that a browser portion using the identification of an Internet

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site must cause the browser to retrieve particular information (i.e., information that is correlated to the service information) as required by Claim 24.

The Office Action, in its further explication of the grounds for rejection on page 2, simply observes that Lee et al. teaches devices that receive a variety of radio and TV broadcasts, including satellite broadcasts, which does not address the above shortcomings. On the top of page 3 the Office Action it is alleged that "the reference discloses radio broadcast of any kind *to* the Internet for correlation to others by....the channel selector. The user could then see all channels available..." To the extent that this is understood as meaning that by virtue of the channel selector the user can view available broadcasts, it still does not address what occurs after the user is directed to the relied-upon Internet address in col. 10, lines 24-29. This part of Lee et al. does not appear to have anything to do with the channel selector buttons on the XM radio of Lee et al. Accordingly, the rejections merit reversal.

Respectfully submitted,

  
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#### APPENDIX A - APPEALED CLAIMS

21. A method for obtaining information related to an XM radio broadcast, comprising:
  - receiving at a client device, from an XM radio, service information related to an XM radio broadcast, the service information containing at least one of: product identification, artist name, song name, broadcast name, the client device being configured with a firewall;
  - receiving at the client device, from a user input device, a signal representing the service information;
  - sending at least portions of the service information to a server computer over the Internet;
  - correlating the service information to information related to the service information;
  - receiving, at a client browser plug-in associated with the client device, at least an identification of an Internet site at which the information related to the service information can be located; and
  - using the identification of an Internet site, causing a browser associated with the client browser plug-in to retrieve the information related to the service information without causing the firewall to block the information related to the service information.
22. The method of Claim 21, wherein the identification of an Internet site is received from an application associated with the client device.
23. The method of Claim 21, wherein the correlating act is undertaken at the server computer.

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24. A system, comprising:

at least one client device application;

at least one XM radio associated with the client device application and receiving service information related to an XM radio broadcast;

at least one user input device for generating a signal representing the service information;

at least one browser associated with the client device application for sending at least portions of the service information to a server computer over the Internet;

at least one client browser portion associated with the client device application and accessing at least an identification of an Internet site at which information correlated to the service information can be accessed, the browser portion using the identification of an Internet site to cause the browser to retrieve the information correlated to the service information.

25. The system of Claim 24, wherein the client device is configured with a firewall, and the browser portion is configured such that the information correlated to the service information is retrieved without triggering the firewall.

26. The system of Claim 25, wherein the service information contains at least one of: product identification, artist name, song name, broadcast name.

27. The system of Claim 24, wherein the identification of an Internet site is received from the client device application.

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28. The system of Claim 24, comprising a server computer communicating with the client device application over the Internet and generating the information correlated to the service information.

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**APPENDIX B - EVIDENCE**

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

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**APPENDIX C - RELATED PROCEEDINGS**

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

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